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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/544,245	08/02/2005	Vincent Douglas	348-087	2635
1009	7590	06/26/2006	EXAMINER	
KING & SCHICKLI, PLLC 247 NORTH BROADWAY LEXINGTON, KY 40507			MAY, ROBERT J	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 06/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/544,245	Applicant(s) DOUGLAS, VINCENT	
	Examiner Robert May	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/13/05</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Objections

Claim 12 is objected to because “the individual” lacks antecedent basis and should be replaced by --the user--.

Claims 13 and 14 “a” should be replaced by --the-- before “malleable strip”.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “buckle or clasp” which secures the controller to the distal portion of the display member as required by Claim 7 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, and 10-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Radley-Smith.

Regarding Claim 1, Radley-Smith discloses in Figure 2, a display apparatus comprising a strap 3, which is by definition flexible, having display members 5 attached thereto and the display members being in the form of a strip having a control unit 15 disposed at one end on the display member (Pg 2, Para 0030).

Regarding Claim 10, Radley-Smith discloses an integrated circuit 15 is used to control the time display (pg 2, para 0034).

Regarding Claims 11, Radley-Smith discloses an electronic bracelet for displaying abstract shapes or visual patterns (pg 1 para 0008).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Radley-Smith as applied to claim 1 above, and further in view of Broderick. Radley-Smith fails to disclose the display member being removably attached to the control unit. Broderick discloses in Figure 4 a controller (housing 6 comprising batteries 13,14 and microchip 17) which may be snap engaged and/or connected by one or more screws 11 to the display member 1,3 (pg 5, 2nd paragraph down) which would have been obvious to one of ordinary skill in the art to be easy to assemble and the components (6,13,14,17) easy to replace if it becomes damaged.

Claims 2-3, 5, 13 and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Radley-Smith in view of Kuroda (US Pat 4,060,185).

Regarding Claim 2, Radley-Smith fails to disclose the display member as being malleable. Kuroda discloses in 1, a band for a wristwatch constituting a thin metal plate that is malleable that can be bent to conform to a wearer's arm (Col 2, lines 65+). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modify the display member as disclosed by Figure 13 of

Radley-Smith with the metal plate of Kuroda so that the wrist band can be bent to conform to a wearer's arm.

Regarding Claim 3, Radley-Smith discloses in Figure 13 a bracelet that is sufficiently stiff as to retain its shape without latches or retainers.

Regarding Claim 15, Radley-Smith discloses in Figure 2 a timing circuit 15 and the display indicating time indicia so the apparatus functions as a watch (Pg 1, para 0004).

Regarding Claim 16, Radley-Smith discloses an electronic bracelet for displaying abstract shapes or visual patterns (pg 1 para 0008).

Regarding Claims 5 and 13, Radley-Smith discloses electroluminescent displays (LEDs 5) integrated with a malleable strip 3, but fails to disclose the display member as being bonded to the malleable strip. It would have been obvious to one of ordinary skill in the art at the time the invention was made to bond the electroluminescent display to the strip because bonding components using adhesives or the like is a very common method of assembly that can be used readily. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to bond the display to the malleable strip of Radley-Smith because bonding is a very common method of assembly that can be readily used.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Radley-Smith and Kuroda as applied to claim 2 above, and further in view of Broderick.

Radley-Smith and Kuroda fail to disclose the display member being removably attached

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to the control unit. Broderick discloses in Figure 4 a controller (housing 6 comprising batteries 13,14 and microchip 17) which may be snap engaged and/or connected by one or more screws 11 to the display member 1,3 (pg 5, 2nd paragraph down) which would have been obvious to one of ordinary skill in the art to be easy to assemble and the components (6,13,14,17) easy to replace if it becomes damaged.

Claims 4 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Radley-Smith in view of Kuroda as applied to Claim 3 and further in view of Broderick.

Regarding Claim 4, Radley-Smith fails to disclose the malleable display member as a strip of thin metal or plastic which is initially axially straight and transversely concave. Broderick discloses in Figure 4 an armband that is made from thin plastic (Pg 3, lines 1-2) so as prevent moisture penetration and is axially straight and transversely curved (pg 2 lines 4-6) so that the arm band has a self coiling nature causing the armband to grip the arm of the wearer (Pg 4, second paragraph) without using any clasps. Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to modify the display member of Radley-Smith with the plastic thin strips that are transversely curved so that the armband prevents moisture penetration and has a self-coiling nature without the use of clasps.

Regarding Claim 14, Radley-Smith discloses an electroluminescent display 5 integrated with a strip 3, but fails to disclose the display member as being bonded to the strip. It would have been obvious to one of ordinary skill in the art at the time the invention was made to bond the electroluminescent display to the strip because bonding

components using adhesives or the like is a very common method of assembly that can be used readily. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to bond the display to the malleable strip of Radley-Smith because bonding is a very common method of assembly that can be used readily.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Radley-Smith and Kuroda as applied to claim 5 above, and further in view of Brewer (US Pat 6,621,766) and Freeman (US Pat 5,931,764).

Radley-Smith fails to disclose a rubber backing and a steel metal strip for the malleable, but Kuroda discloses in Figure 1, a rubber backing 6 (Col 3, line 67-68) to prevent the human body from being hurt from the ends of the metal plate (Col 4, lines 23-26) and a stainless steel material used as the malleable thing metal strip because it maintains its luster semi-permanently (Col 2, lines 10-15). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to back the metal plate of Radley-Smith with the rubber backing and stainless steel metal strip of Kuroda so that the human body is not hurt from the ends of the metal plate and the metal band maintains its luster semi-permanently.

Radley-Smith fails to disclose the display member as comprising a filter layer, but Brewer discloses the use of color filters in watch displays to enhance the color (Col 8, lines 20-35). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made have a color filter of Brewer as part of the display member of Radley-Smith to enhance the color.

Radley-Smith fails to disclose the display member as comprising an anti-moisture covering, but Freeman discloses in Figure 2A, 2B, a flexible wearable illuminating device comprising a top layer 26 to waterproof the assembly (Col 3, lines 1-10). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the display member of Radley-Smith with the top anti-moisture layer 26 of Freeman to waterproof the assembly.

Claims 7, and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Radley-Smith in view of Cheung.

Regarding Claim 7, Radley-Smith fails to disclose the control unit secured to the distal portion of the display member by a buckle or clasp. Cheung discloses in Figure 2 a cavity 22 in the buckle 4 of an electroluminescent strap for housing a circuit board, which can be sealed and protected against ingress of moisture (Col 2, lines 53-54). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have a buckle securing the control unit or circuit board to the distal end of the display member so that the control unit can be housed and protected against ingress of moisture.

Regarding Claim 18, Radley-Smith discloses in Figure 2 a timing circuit 15 and the display indicating time indicia so the apparatus functions as a watch (Pg 1, para 0004).

Regarding Claim 19, Radley-Smith discloses an electronic bracelet for displaying abstract shapes or visual patterns (pg 1 para 0008).

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Radley-Smith in view of Blotky. Radley-Smith fails to disclose the controls in the form of touch sensitive areas on the display member. Blotky discloses a controller on a bracelet display comprising touch screens or buttons (pg 6, line12) so that the wearer can program the microprocessor (pg 5, lines 1-2). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the display member of Radley-Smith with the touch sensitive areas of Blotky so the wearer can program the microprocessor.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Radley-Smith and Cheung as applied to claim 7 above, and further in view of Broderick. Radley-Smith and Cheung fail to disclose the display member being removably attached to the control unit. Broderick discloses in Figure 4 a controller (housing 6 comprising batteries 13,14 and microchip 17) which may be snap engaged and/or connected by one or more screws 11 to the display member 1,3 (pg 5, 2nd paragraph down) which would have been obvious to one of ordinary skill in the art to be easy to assemble and the components (6,13,14,17) easy to replace if it becomes damaged.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schickedanz (4,130,987) discloses a timepiece with a display member and controller for wearing on the limb of a person


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert May whose telephone number is (571) 272-5919. The examiner can normally be reached between 9 am– 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax number for the organization where this application or proceeding is assigned is (571) 273-8300 for all communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval PAIR system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RM

6/16/06


RENEE LUEBKE
PRIMARY EXAMINER